

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

HAROLD BRYAN WILSON, and  
RILEY NICOLE SHADLE,

Plaintiffs,

vs.

JASON GEERDES, FRED BRITTEN,  
CATHY SHEAIR, and SCOTT  
FRAKES,

Defendants.

**8:16CV524**

**MEMORANDUM  
AND ORDER**

Plaintiffs, pro se, are inmates incarcerated with the Nebraska Department of Corrections who seek to get married. They allege that Plaintiff Wilson was transferred to a separate facility from Plaintiff Shadle (“a transgender female residing in a male facility”) because they wish to marry. They allege that they are prohibited from having contact with one another and therefore cannot comply with this court’s order that each of them sign any document filed in this case. Given the allegations and the state of the law on the right to marry, and to facilitate one operative pleading from Plaintiffs as well as any subsequent joint filings, the court concludes that counsel should be appointed. *See, e.g., Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996) (“The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel . . .”).

The court has consulted with Chief Judge Smith Camp and she has agreed that the Federal Practice Fund may be used to assist with the appointment of counsel. Further, the court has consulted with Mr. Michael D. Gooch and he has graciously agreed to accept an appointment in this case. Accordingly,

IT IS THEREFORE ORDERED that:

1. With thanks for accepting the appointment, Michael D. Gooch is hereby appointed to represent Plaintiff Wilson and Plaintiff Shadle. The clerk of the court shall provide Mr. Gooch with a copy of this Memorandum and Order.

2. Mr. Gooch is directed to promptly enter his appearance as counsel in this case.

3. Upon entry of Mr. Gooch's appearance in CM/ECF, the clerk of the court shall immediately pay from the Federal Practice Fund the sum of \$1,000 to Mr. Gooch.

4. A second and the last installment of \$1,000 shall become due and payable to Mr. Gooch upon the entry of judgment or other closing documents in the case.

5. Mr. Gooch may incur reasonable expenses when representing Plaintiffs in accordance with parts III(A), VI(C), and VI(E) of the *Amended Plans for Administration of the Federal Practice Fund and Federal Practice Committee*.<sup>1</sup> See also NEGenR [1.7\(g\)](#) and NECivR [54.3-54.4](#).

6. Should Plaintiffs succeed and Mr. Gooch is awarded attorney fees and expenses that exceed \$2,000 plus expenses, he shall reimburse the Federal Practice Fund for the fees and expenses paid from the fund.

7. At the direction of the court, this case is removed from the pro se docket. The clerk's office shall randomly assign new judges to this case and shall request a reassignment order from the Chief Judge.

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<sup>1</sup> <http://www.ned.uscourts.gov/internetDocs/pom/crtplans/fedpract.pdf>

8. All pending motions, including Defendants' Motion to Dismiss ([Filing No. 42](#)), will be stayed until the assigned judges enter an order progressing the matter. The undersigned recommends to the judges, who are ultimately assigned, to consider issuing a progression order after consultation with counsel.

9. The clerk's office shall provide Plaintiffs, counsel for Defendants, and Chief Judge Smith Camp with a copy of this Memorandum and Order.

Dated this 31st day of March, 2017.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge

\*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.